proper, nor why to the innuendo actually alleged the defendants could not have pleaded truth.

The case well illustrates the freedom with which English judges express their opinion on the facts at issue. The Lord Chief Justice, in summing up, asked the jury if they could have any doubt that the effigy was a libel, and on the question of damages said, in effect, that Monson was a fraud, a blackguard, and a fabricator, whereupon the jury at once returned a verdict for the plaintiff, damages one farthing. The distinction between a binding instruction and such unequivocal remarks as these seems a little shadowy, even making allowance for the English practice of commenting on the evidence. The Lord Chief Justice prefaced his charge with the observation that there was no class of cases in which the functions of the judge were more limited, and that the jury were the sole judges of whether the particular matter complained of was or was not a libel. They may have been, but they certainly received from the bench a significant hint of what was expected of them. The American practice of omitting all comment on the evidence is assuredly more in keeping with the general rule that questions of fact are for the jury, though doubtless there is much to be said from a utilitarian point of view for the sort of thing illustrated in this case.

AN AGENT'S AUTHORITY BY NECESSITY. — In the case of *Gwilliam* v. *Twist*, 11 *The Times* L. R. 208, the Court of Queen's Bench decided that the conductor of an omnibus has authority implied from necessity to appoint, in certain emergencies, a stranger to drive the vehicle back to the yard, and, as a consequence, to render his principal liable for the stranger's negligent conduct on the road. This decision, although apparently arrived at with some hesitation, seems so clearly right as to require no discussion; but the questions which it suggests are by no means so easily disposed of. Suppose it a cab instead of an omnibus, no conductor, and only an intoxicated driver, insensible from drink, — is it possible then to make the principal liable for a stranger's acts? Probably the same result would be arrived at. Story, for example, says (Agency, 6th ed., § 142): "In such cases, the stranger performs the functions of the *negotiorum gestor* of the civil law; and seems justified in doing what is indispensable for the preservation of the property, or to prevent its total destruction." Wharton, however, (Agency, § 355,) appears to disagree with this conclusion, and, indeed, if it is to be arrived at, it should not be on the analogy suggested. The Roman Law doctrine of *negotiorum gestio* hardly seems susceptible of being stretched beyond its legitimate limits, *i. e.* a quasi-contractual relation between the two parties alone, not extended to include outsiders; and most of the law on the Continent on this subject being statutory would seem equally inapplicable to the case. If Story's result is to be reached on contractual theories of agency, it can only be by an implication of what the principal should have meant had he thought about it, and not by a true inference from any actions or understanding on his part. Perhaps, on some other conception of agency, it may be more easily explained. At any rate, the result will probably be worked out on some such line, while the true basis on which the conclusion will be founded is a sound public policy which makes such a solution desirable.